

**COUNTY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 260  
Tuesday, January 15, 2002, 1:30 p.m.  
County Commission Room  
Room 119  
County Administration Building

**MEMBERS PRESENT   MEMBERS ABSENT   STAFF PRESENT   OTHERS PRESENT**

Alberty, Chair	Hutson	Butler	West, County Insp.
Tyndall		Fernandez	
Walker		Stump	
Dillard, Vice Chair			

The notice and agenda of said meeting were posted in the Office of INCOG, 201 W. 5<sup>th</sup> St., Suite 600, Thursday, January 10, 2002 at 2:07 p.m., as well as at the City Clerk's office, City Hall.

After declaring a quorum present, Chair Alberty called the meeting to order at 1:30 p.m.

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**MINUTES:**

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Dillard, Walker, Tyndall, Hutson "aye"; no "nays", no "abstentions"; no "absences") to **APPROVE** the Minutes of December 18, 2001 (No. 259).

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**UNFINISHED BUSINESS**

**Case No. 1917**

**Action Requested:**

Applicant requests a Reconsideration:

Variance of lot width from 200' to 165' for lot-split L-19313 (Tract A). SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6; a Variance of lot area from 2 acres to 1.47 acres (Tract B). SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS; a Variance of land area from 2.2 acres to 1.95 acres if roadway dedication is required on 171<sup>st</sup> Street and Yale Avenue (Tract B). SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS; OR in the alternative a Variance of Section 208 to allow 2 dwellings on 1 lot. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD, located 4705 E. 171<sup>st</sup> St.

Mr. Alberty stated to Mr. Oakley, attorney for the applicant, that the Board already took action on Case No. 1917. Mr. Alberty explained that a decision for reconsideration is based on extenuating circumstances, or new information that was not presented to the Board at the time of the hearing, the Board may choose to reconsider the case, otherwise the Board Action stands.

**Presentation:**

**Stephen Oakley**, 222 W. 8<sup>th</sup> St., stated he was representing, the applicant, Linda Crockett and her husband Leonard Crockett. It has come to their attention that if the right-of-way dedication were used it would involve 20' of the existing house, including a carport and bedrooms. Mr. Oakley added that the County Engineers are willing to recommend less of a dedication of right-of-way so that the house, swimming pool, and carport are not impacted.

**Comments and Questions:**

Mr. Alberty responded that the Board already has this information, and asked if Mr. Oakley had specific measurements required by the County Engineers. He provided a site plan (Exhibit A-1).

**Jay Stump**, INCOG, made a point of order, that before the Board considers the new information, they need a motion on whether to reconsider the case or not.

Mr. Walker asked what would be different from the decision made on December 18, 2001. Mr. Alberty replied that by the Board Action in December, the full dedication of 60' would be required, which would destroy part of the home in the right-of-way. They have talked to the engineer, and he has agreed to reduce the right-of-way so it would not include the home.

**Board Action:**

On **MOTION** of **Tyndall**, to Reconsider Case 1917, the **Motion Died** for lack of a second, and will not be reconsidered.

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**Case No. 1919**

**Action Requested:**

Special Exception to construct a 250' monopole cellular transmission tower on property zoned AG. SECTION 1204.C.3.2. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES – Use Unit 4, located at the Tulsa State Fairgrounds/Expo Square.

**Presentation:**

**Kelly Balman**, 320 S. Boston, stated she was present for Kevin Coutant, representing Hemphill Corporation. She asked for a continuance to February 20, 2002, stating they have not finalized the details of arrangements with the

Fairgrounds Authorities. A letter of request from Ms. Balman (Exhibit B-2) was submitted to the Board.

**Board Action:**

On **MOTION** of **Walker**, the Board voted 4-0-0 (Walker, Tyndall, Alberty, and Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **CONTINUE** Case No. 1919 to the meeting on February 20, 2002.

Parent Tract: A tract of land described as the E/2 SW/4 SE/4 of Section 9, T-19-N, R-13-E, of the IBM; Lease Area: A tract of land contained within the SE/4 of Section 9, T-19-N, R-13-E, of the IBM, being more particularly described as follows: Commencing at the NE/c of said SE/4; thence S 89°56'12" W along the N line of said SE/4, a distance of 2,568.38'; thence due S a distance of 293.00' to the POB; thence due E a distance of 100.00'; thence due S a distance of 100.00'; thence due W a distance of 100.00'; thence due N a distance of 100.00' to the POB, containing 10,000 square feet or 0.296 acres, more or less, all in Tulsa County, State of Oklahoma.

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**Case No. 1927**

**Action Requested:**

Special Exception for the installation of two AM radio towers. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 4, located 2603 E. 56<sup>th</sup> St. N.

**Presentation:**

**Bill LaFortune**, 2900 Mid-Continent Tower, stated he was representing Clear Channel Radio for a special exception for two radio towers. The location is just east of Lewis and west of Birmingham and on the north side of 56<sup>th</sup> Street North. The current zoning is AG and is surrounded on the north by County RS, on the east by County AG, on the west County RS. To the south of the property is City RS-3 zoning. The current use of the site is two existing radio towers, which are much larger than the two proposed towers. He submitted photographs (Exhibit C-1) to the Board. At the last hearing there were some neighbors concerned about health issues regarding electromagnetic radiation. He informed the Board that he asked an expert engineer to come to this hearing with a statement to affects or lack of affects and to answer the Board's questions.

**Jack Selmeyer**, a consulting radio engineer, stated he practices in McKinney, Texas, and came on behalf of Clear Channel. He described the existing towers as 215' in height and the two proposed towers would be guyed towers of 180' for KTBZ with 25,000 watts during the daytime. He stated that the Federal Communications Commission is responsible for enforcing the National Environmental Policy Act. The FCC provides guidelines for such towers. The plans for these towers exceed the minimum requirements for fencing distance and

safety issues. He assured the Board that the electromagnetic radiation from these towers at the nearest edge of the property would be very minimal. He stated that the electromagnetic field of an electric blanket would be many times greater than that at the fence line of these towers. He submitted a printout of this information to the Board (Exhibit C-3).

Mr. LaFortune pointed out that these are AM radio towers and the signal emanates from the towers, therefore it is not possible to add on to the existing towers.

**Interested Parties:**

**Darlene Morgan**, 4969 N. Trenton, stated she was representing her mother-in-law, Julia Morgan, 5540 N. Lewis. She already has interference with her phone, computer, and television. She is also concerned with the health issues related to the radio towers. Mr. Alberty asked if she still had concerns about the health issues after hearing the engineer. Ms. Morgan stated that they would still be concerned about the interference on her phone and electronic equipment.

**Applicant's Rebuttal:**

Mr. LaFortune stated he discussed this with the interested parties and informed them that within the first year the company must address any complaint made. Mr. Walker commented that he would not want to approve more towers if the existing towers are causing interference that cannot be fixed. Mr. LaFortune stated that the towers have been on the site since the early 1900's. Mr. LaFortune asked Troy Langham to speak to the issue.

**Troy Langham**, 1508 S. Owasso, stated he is the local engineer for Clear Channel. He stated that it has been found that the problem of interference is not the emission of a signal that causes the interference but the design of consumer electronics that is picking up the signal. He offered as a corporate citizen to help this interested party find solutions, even though the period of responsibility is past. He added that they have phones at the towers and they have no problem with interference. Mr. Langham stated that it may require a better phone than she has now. Mr. Dillard commented that he experienced this problem once before and it was a matter of correcting the wiring in his home.

Mr. LaFortune reminded the Board that the first time they heard of the problem was at the last hearing. He offered to continue this case and deal with the problem before the Board decides.

**William Larry Underwood**, 5613 N. Lewis, stated he lives just west of the towers. He stated that he also has the problems with interference on his phone, television, radio, and computer. He submitted information copied from the internet regarding health issues (Exhibit C-2) and considers them to be a real concern. Mr. Alberty asked if he would be interested in talking with the applicant to find solutions. Mr. Underwood replied that he would be interested in discussing the problems with someone from Clear Channel.

**Applicant's Rebuttal:**

Mr. LaFortune stated that the FCC policy has studied these problems and has excluded the issues concerning consumer electronics from the responsibility of radio stations and towers. He added that Clear Channel has already made a commitment to this Board to meet these individuals to help solve their problems.

Mr. Walker commented that he has studied these issues and found that no one has been able to prove any direct connection to the health issues, but it has not been proven that there may be some affect. He was in favor of Clear Channel helping Mrs. Morgan.

Mr. LaFortune requested a one-month continuance to February 20, 2002 to meet with the interested parties present.

**Board Action:**

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, and Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **CONTINUE** Case No. 1927 to the meeting on February 20, 2002.

The E/2 of the SW/4 SW/4, less and except the W 12.00' of the N 330.00' and less and except the N 30.00' of the W 648.00' thereof for roadway, Section 5, T-20-N, R-13-E of the IBM, according to the U.S. government survey thereof, Tulsa County, State of Oklahoma.

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**Case No. 1928**

**Action Requested:**

Special Exception to allow an existing church on the property to obtain a building permit for an addition. SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; and a Special Exception for church uses. SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS, located, 1519 S. 81<sup>st</sup> W. Ave.

Mr. Alberty noted a letter from the City of Sand Springs recommending approval of the application, with no objections.

**Presentation:**

**Bennie Bengé**, 808 S. 12<sup>th</sup> St., Broken Arrow, stated he was representing the Harvest Times Assembly of God Church. He added that they want the special exceptions to get a building permit.

**Comments and Questions:**

Mr. Alberty asked if he has shown his plans to the County Inspections office to find out if this is all the relief he will need. Mr. Bengé replied he has not.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Special Exception** to allow an existing church on the property to obtain a building permit for an addition; and a **Special Exception** for church uses, subject to the plan submitted, finding it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Lot 10, Block 7, Billington Acre Tracts and the N 15.00' of Lot 11, Block 7, Billington Acre Tracts, Tulsa County, State of Oklahoma.

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**Case No. 1929**

**Action Requested:**

Variance of required side yard from 15' to 9' 6". SECTION 430. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS – Use Unit 6, located 1220 S. 262<sup>nd</sup> W. Ave.

**Presentation:**

**James Armbruster**, P.O. Box 523, Cleveland, stated he is the contractor for the applicants. They want to construct an addition to the end of the house. He added that the applicants own the lot with the house, the lot beside and the lot below it. He pointed out that there is not another place to add onto the house because of the topography and lot lines. The applicant owns the property that would be encroached.

**Comments and Questions:**

Mr. Alberty asked if the lot on the north is vacant and does he have plans to develop it. Mr. Armbruster replied that it is vacant and he has no plans to sell it.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Variance** of required side yard from 15' to 9' 6", finding the hardship to be the applicant owns the properties, and the addition will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the following described property:

Lot 7, Block 2, Cimarron Run Addition, Tulsa County, State of Oklahoma.

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**Case No. 1930**

**Action Requested:**

Special Exception to allow a church use and accessory church uses in an AG-R zoned district. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 5; and a Special Exception to allow two manufactured buildings for temporary class room space. SECTION 1420. NONCONFORMING USE OF BUILDINGS OR BUILDINGS AND LAND IN COMBINATION, located 11516 N. 123<sup>rd</sup> E. Ave.

**Presentation:**

**Jerry Elwell**, 12111 E. 90<sup>th</sup> St. N., Owasso, stated he is the pastor, representing Covenant Bible Church. They propose to place two pre-fabricated buildings on the property. When they applied for the special exception, INCOG could not find any relief granted for church use of the property. He submitted a copy of old Board of Adjustment minutes (Exhibit D-2) to show the relief was granted for church use. He explained that the church building has no education or nursery space and they would like to provide these pre-fabricated buildings for that purpose until they can add on to their building. A map was also provided (Exhibit D-1).

**Comments and Questions:**

Mr. Alberty asked if the application were approved on a temporary basis, would they remove the temporary buildings after construction of an addition to the building. Rev. Elwell replied that they would remove the temporary buildings.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Special Exception** to allow two manufactured buildings for temporary class room space, for a five-year period, as shown on the plan as Phase I, finding it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

A tract of land situated in the NW/4 NW/4 NE/4 of Section 8, T-21-N, R-14-E, of the IBM, Tulsa County, State of Oklahoma, being more particularly described as follows; Beg. at the NW/c NE/4 of Section 8; thence S 288.73'; thence E 633.6'; thence N 288.7' to point on N line of Section 8; thence W 633.74' along the N line to POB, less the N 30' for roadway easement.

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**Case No. 1931**

**Action Requested:**

Variance of Section 208 to allow two dwelling units on one lot of record. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6, located 402 S. 71<sup>st</sup> W. Ave.

**Presentation:**

**Larry McCollough**, 402 S. 71<sup>st</sup> W. Ave., stated he would like to convert a stick built 20' x 24' storage structure into a house for his mother. He wants to put in a kitchen and bathroom.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Variance** of Section 208 to allow two dwelling units on one lot of record, finding it is an existing structure to be converted to a house, and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the following described property:

The S 15.00' of the N 25.00' of Lot 20, Block 5, Twin Cities Sub-division, Tulsa County, State of Oklahoma, is restricted from being transferred or conveyed as above described without including the S 75.00' of Lot 20, Block 5, Twin Cities Sub-division, Tulsa County, State of Oklahoma unless the Tulsa Metropolitan Area Planning Commission, or its successors, according to law, approves such conveyance or transfer.

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**Case No. 1932**

**Action Requested:**

Special Exception for Use Unit 25 in CH for light manufacturing. SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 25, located SW/c Southwest Blvd. & Skelly Dr.

**Presentation:**

**Dow Bushyhead**, 2442 W. Skelly Dr., stated he wants to move his existing business to a new location. The lot is vacant and he plans to construct a new building.



**Comments and Questions:**

Mr. Alberty noted that the property is surrounded by moderate industrial. Mr. Dillard asked the nature of the business. Mr. Bushyhead replied he sells industrial hose and it is an extremely light industrial manufacturing.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Special Exception** for Use Unit 25 in CH for light manufacturing, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the following described property:

Beg. at the SE/c SE/4 NW/4 NW/4 of Section 33, T-19-N, R-12-E, thence N along the E line of the SE/4 NW/4 NW/4 a distance of 302.6', thence W 25.00' to a point intersecting the right-of-way of the Tulsa/Sapulpa highway, thence SWly along and parallel with said highway right-of-way a distance of 228.30', thence SWly to the S line of the SE/4 NW/4 NW/4, a distance of 244.39', m/l, thence E along the S line of the SE NW NW a distance of 376.50' m/l, to the POB, 1.422 acres, m/l Tulsa County, State of Oklahoma.

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**Case No. 1933**

**Action Requested:**

Variance of the required lot average width from 200' to 187' (Tract 2). SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6; a Variance of the required land area (Tract 1) from 2.2 acres to 2.17 acres SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS, located 10022 E. 135<sup>th</sup> St. N.

**Presentation:**

**Robert Hicks**, 10022 E. 135<sup>th</sup> St. N., stated he purchased the property with plans to divide it for his children to build a stick built home. The street was dedicated with the full 50' of right-of-way. He stated that they discovered in previous cases this was not calculated.

**Comments and Questions:**

Mr. Alberty noted that even Mr. Hicks structure is built within that same right-of-way. Mr. Alberty commented that it seemed rather excessive because the survey shows the existing home is 47' from the property line, and an additional 50' of right-of-way. Mr. Alberty also noted that the only need for this application is the 30' panhandle because the actual width is 300'.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Variance** of the required lot average width from 200' to 187' (Tract 2); and a **Variance** of the required land area (Tract 1) from 2.2 acres to 2.17 acres, as presented, finding the size of the tract and small panhandle, and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the property described as follows:

Existing undivided tract: the E/2 SE/4 NW/4 NW/4 of Section 31, T-22-N, R-14-E, of the IBM, Tulsa County, State of Oklahoma, according to the U.S. Government survey thereof, less the N 50' thereof. Proposed Tract 1: The S 290.67' of the N 340.67' W 300.00' E/2 SE/4 NW/4 NW/4 of Section 31, T-22-N, R-14-E, of the IBM, Tulsa County, State of Oklahoma. Proposed Tract 2: The E/2 SE/4 NW/4 NW/4 of Section 31, T-22-N, R-14-E, of the IBM, Tulsa County, State of Oklahoma, according to the U.S. Government survey thereof, less the N 50' thereof and less the S 290.67' of the N 340.67' of the W 300' thereof.

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**Case No. 1934**

**Action Requested:**

Special Exception permitting in a CS district Use Unit 17, Automotive and Allied Activities, excluding overnight campgrounds for recreation vehicles. SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located N side of W. 9<sup>th</sup> St., E of N. 175<sup>th</sup> W. Ave.

**Presentation:**

**Charles Norman**, 2900 Mid-Continent Tower, stated he was representing the applicant, Dennis Rankin. He proposes to operate a horse and livestock trailer dealership for Featherlight Trailers on the subject property. He pointed out the good location next to an expressway and a western outlet store. The existing business is in favor of this application. He pointed out that the business is appropriate for the area. He also stated that the use is permitted in a CS district by special exception. They believe they are able to meet all of the requirements for the use. They have excluded the use of an overnight campground, finding it would not be appropriate for this business. Mr. Norman pointed out that Lot 4 was not included in the site plan. Mr. Rankin has the option to buy Lot 4 in the future and they would be willing to submit that property on an amended site plan. The outdoor lighting would be directed down and away from other properties. The hours of operation would be daytime only.

**Comments and Questions:**

Mr. Alberty stated that the City of Sand Springs took no action on this application, but did make a few comments. Mr. Norman responded that he spoke with Bob Wolfram and Sand Springs had no objections. Mr. Alberty stated that the Board did not need a site plan including Lot 4 until they propose a use on it. Mr. Stump asked if they would be willing to restrict the use to just the sale of the trailers, with no automotive or truck sales. Mr. Norman responded they do not need approval for auto or truck sales, but they would include sales of accessories. Mr. Rankin specified that no trades of autos or trucks or any vehicle would be accepted.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** permitting in a CS district Use Unit 17, Automotive and Allied Activities, excluding overnight campgrounds for recreation vehicles, as presented, with conditions for horse trailers only, no auto or truck sales, finding it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Lots 2, 3, and 4, Block 3, Wekiwa Hills, a subdivision in part of the W/2 of Section 6, T-19-N, R-11-E, Tulsa County, State of Oklahoma.

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**Item No. 12.**

**Discussion on Proposed Amendments to Tulsa County Zoning Code**

(See attachment for full set of proposed amendments.)

After discussion, the Board agreed on the following changes:

**Agricultural District Regulations**

Recommendations were made by the Board for the following changes:

**Section 208.** One Single-Family Dwelling Per Lot of Record. Bulk and Area Requirements in the Agricultural District

- Lot Area 2 acres minimum in an AG district
- Land Area 2.1 acres minimum in an AG district
- Establishing Farm Building Standards separately, and a Building Height of 35' for residential in AG and AG-R districts

**Section 440 B.2.** No signs, displays or advertising on premises, visible from outside the lot, shall be permitted.

8. Vehicles used in conjunction with the home occupation shall be parked off the street, on the lot containing the home occupation shall be parked off the street, on an all-weather surface, on the lot containing the home occupation and shall be of a type customarily found in a residential district.

**Outdoor Sales Restrictions**

**Section 1202.3 Use Conditions**

Temporary open air activities, except construction facilities, may continue for a period not to exceed 90 days in any one calendar year for fireworks and fruit stands in particular, as discussed and decided to limit time period by Board Action per case.

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There being no further business, the meeting was adjourned at 3:47 p.m.

Date approved: \_\_\_\_\_

2/20/02  
Wayne Albeck  
Chair